



COMMONWEALTH of VIRGINIA
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October 13, 2004

Philip A. Shucet, Commissioner
Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219

Re: 24 VAC 30-90, Subdivision Street Requirements, Amendments

Dear Commissioner Shucet:

I confirm my opinion of January 5, 2004 that the Commonwealth Transportation Board has the requisite statutory authority to amend the Current Subdivision Street Requirements, designated as 24 VAC 30-91.

The Requirements are, in fact, regulations as defined by the Administrative Process Act. Under §33.1-69, the Department of Transportation, its Commissioner and Commonwealth Transportation Board are granted “control, supervision, management and jurisdiction over the secondary system of state highways”. Subdivision Streets are typically secondary roads. Section 33.1-229 allocates to the Commissioner the discretion to approve expenditure of State funds on roads in the secondary system. Section 33.1-198 requires persons desiring commercial entrances to state highways to obtain permits from the Department of Transportation. Entrances from subdivisions onto state highways are considered “commercial entrances”. Finally, §33.1-12 assigns to the Board the authority to (1) locate and establish roads comprising the system of State highways; (2) to let all contracts for the construction of the roads; and (3) to make rules and regulations for the protection of, covering traffic on, and the use of the systems of State highways. In addition, the Budget Bill, Item 484 (D), in §1-125 extends the authority to the Department of Transportation to recover all such costs of providing services to other entities, public and private, that are reasonable and appropriate.

These Requirements deal with standards for acceptance for maintenance, pavement design, drainage design, and capacity analysis among other aspects of roadway design, as well as other conditions necessary to be met before coming a part of the secondary system of State highways.

Sincerely,

John J. Beall, Jr.

